

**Notice of Allowability**

Application No.

10/080,746

Applicant(s)

BEISWENGER ET AL.

Examiner

Van T Trieu

Art Unit

2636

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the application filed on 22 Feb 2002.
2. ☒ The allowed claim(s) is/are 1-86.
3. ☒ The drawings filed on 22 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>8/21/03 &amp; 6/17/02</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material  | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## DETAILED ACTION

### EXAMINER'S AMENDMENT

1. The application has been amended as follows: Since the claim number 85 is skipped, renumbering of the original dependent claims 86 and 87 as following:

Page 42, original claim 86, line 1, number "86" should renumber to number --- 85

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Page 43, original claim 87, line 1, number "87" should renumber to number --- 86

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### *Allowable Subject Matter*

2. The following is an examiner's statement of reasons for allowance: there are no prior arts teaching or suggesting of an apparatus and method for providing an early warning detection of bioterrorism event, comprising the steps of:

obtaining an individual's basal metabolic temperature;

comparing the basal metabolic temperature to a detection threshold value; and

identifying a basal metabolic temperature reading surpassing the detection

threshold value that indicates a potential infection by a biological warfare agent.

In another embodiment,

obtaining an individual's basal metabolic temperature;

establishing a plurality of detection threshold values that are spaced apart by

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predetermined accepted temperature range defined as low-grade fever;

comparing the individual's basal metabolic temperature to the plurality of detection threshold value; and

identifying and evaluating a basal metabolic temperature reading surpassing the detection threshold value that indicates a potential infection by a biological warfare agent

In another embodiment,

obtaining a basal metabolic temperature for the individual over a period of time;

comparing the individual's basal metabolic temperature to a detection threshold value to evaluate the individual's risk of having been infected by a biological warfare agent; and

determining if the individual actually has been infected by the biological warfare agent.

In another embodiment,

obtaining a temperature for each participant in a plurality of participants that are members of the community;

comparing each participant's temperature to a detection threshold value; and

identifying and evaluating a community-wide potential infection based upon the number of participants having a temperature surpassing the detection threshold value.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

**Prokovski** discloses a thermal image is utilized to capture facial image of a patient and using minutiae analysis technique to identify a diagnostic patient conditions.

[US 6,173,068]

**Knowlton** discloses of a cleavage of crosslinks with collagen remodeling occurring at a basal metabolic temperature to be expressed morphologically as the process of aging.

[US 6,470,216]

**Small** discloses a method detecting of bioparticles in a sample utilizing a sensor device that receives photocooustic signals from a sample. [US 6,694,799]

**Vivekananda et al** discloses anthrax specific nucleic acid ligands capable of binding to, identifying and/or neutralizing anthrax. [US 6,569,630]

**Tabacco et al** discloses optical sensors for rapidly detecting and quantifying of bacterial spores based upon molecular recognition of unique chemicals in the spore coat in the biological warfare agents. [US 6,498,041]

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**Rastogi et al** discloses sequences in diagnostic assays to accurately analyze samples for environmental contamination by biological anthrax spores and for early diagnosis of anthrax in human and non-human animals. [US 6,448,016]

**Wick et al** discloses a system and method for detection, identification and monitoring of submicron sized particles as a potential biological warfare threat environment.

[US 6,051,189]

**Ho** discloses a process and apparatus for detection of viable and potentially hazardous biological particles, which may be dispersed in a particulate-containing airstream.

[US 5,895,922]

4. Any inquiry concerning this communication or earlier communications from examiner should be directed to primary examiner **Van Trieu** whose telephone number is (703) 308-5220. The examiner can normally be reached on Mon-Fri from 7:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. **Jeffery Hofsass** can be reached on (703) 305-4717.

The central office facsimile number is (703) 872-9306.



**Van Trieu**  
**Primary Examiner**  
**Date: 7/15/04**

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